THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
and
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 5245 of 2006

O R D E R: (Per the Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed seeking a writ of Certiorari calling for the records relating to the order dated 30.9.2005 in O.A. No. 5257 of 2001 and quash the same and also to declare the impugned Memo No. Rc/ENC/a2/3436/94 dated 10.4.2001 of the 2nd respondent as illegal and arbitrary and violative of Articles 14 and 16 of the Constitution of India and contrary to order passed by the Tribunal in O.A. No. 3765 of 1991 dated 1.2.1999 and consequently to set aside the same and pass appropriate orders by granting relief as claimed in the representation dated 20.9.1989 with bank interest throughout with all consequential benefits.

Heard the learned counsel for the parties and perused the material available on record.

The petitioner herein filed O.A. No. 5257 of 2001 before the Tribunal. The Tribunal observed that the petitioner on his own personal reasons has not joined the post to which he has been transferred and that the problems faced by him with regard to salary, arrears etc., are as a consequence of his inclination to work at a place of his choice and to avoid the posting which is not convenient to him. However, there is no material placed either before this Court or before the Tribunal that even though the petitioner was asked to join at a particular place, he refused to join. On the other hand, the material placed before this Court discloses that on receiving the

transfer orders he handed over the charge to his successor and reported to duty at the transferred place but he was not permitted to join duty on the ground that he did not get the consent of Executive Engineer. It is also the case of the petitioner that he came to know that another person was posted at Anantasagaram. On 22.9.1980 he was transferred and posted in M & MPI Circle, Cuddapah and on 18.11.1980 the Superintending Engineer posted him to SRCX Division but no further order was issued from the Division and on 24.1.1982 the Chief Engineer transferred the applicant to Irrigation Circle, Nellore. On 30.1.1982 the Superintending Engineer posted him in S.I. Division, Nellore and on 8.2.1982 the Executive Engineer issued order posting him to S.I. Sub-Division, Gudur which is stated to have been received by the petitioner on 20.4.1982. On 15.3.1982 the Superintending Engineer cancelled the order dated 30.1.1982 and on receipt of the same the petitioner made representation on 22.4.1982 for reposting. On 17.7.1982 the petitioner is stated to have reported to duty at Somasila Project Circle, Nellore pursuant to the order of the Executive Engineer dated 16.7.1982.

The material available on record further discloses that the petitioner had to wait for nearly two years for posting. In the circumstances, we are of the considered view that the ends of justice of be met if the order of the Tribunal is modified by holding that the said period from 1.7.1980 to 17.7.1982 should be treated as compulsory wait without salary.

The writ petition is accordingly disposed of directing the respondents to treat the period of absence of the petitioner from 1.7.1980 to 17.7.1982 as compulsory wait, without salary. But, however, it is made clear that the said period should be counted for the purpose of calculation of pension.

T. MEENA

KUMARI, J.

G. CHANDRAIAH, J.

Date: 20-08-2007.

MVB.